

ZONING BOARD OF APPEALS

MAY 16, 2016 MEETING MINUTES

Present: Chairman Ron Nolland, Kathleen Insley, Scott DeMane,
April Kasper (Alt.), Kathy Latinville (Alt.)
Joe McMahon, Building Inspector

ABSENT: Connie Fisher, Kellie Porter (Alt)

Also Present:

Appeal #2050 & 2051	Matt Jodoin
Appeal #2066	Julie Woodley
Appeal #2067 & 2068	Scott Allen, AES Northeast, PLLC Scott Vallee, Maplefields Dereck Rosenbaum, Rosenbaum Appraisal & Consulting Tom Murnane, Stafford, Owens, Pillar, Murnane Kelleher & Trombley, PLLC
Appeal #2070	John Waterhouse
Appeal #2072	Donna Mundy
Appeal #2074	Chris Case

Mr. Nolland called the meeting to order at 7:00 PM. The following items were on tonight's agenda.

APPEAL	APPLICANT	REQUEST
2050	LAKE CITY PROPERTIES 4907 SOUTH CATHERINE STREET	CLASS B VARIANCE TO EXPAND CURRENT USE WHILE NOT PROVIDING ENOUGH PARKING EXTENSION OF APPROVAL FROM 11/16/15
2051	LAKE CITY PROPERTIES 4907 SOUTH CATHERINE STREET	SPECIAL USE PERMIT EXPAND CURRENT USE TO OPERATE NURSING/REST HOME EXTENSION OF APPROVAL FROM 11/16/15
2066	JULIE WOODLEY 7 IANELLI AVENUE	CLASS B VARIANCE REQUEST TO WIDEN DRIVEWAY INTO SIDE YARD SETBACK
2067	R. L. VALLEE INC. EAST SIDE US AVENUE	CLASS A VARIANCE CONSTRUCTION OF A NEW CONVENIENCE STORE WITH GASOLINE SALES IN A RC-2 DISTRICT

2068	R. L. VALLEE INC. EAST SIDE US AVENUE	CLASS B VARIANCE 1)2 PRINCIPLE STRUCTURES ON 1 LOT; 2)LOT 13 LACKS REQUIRED OPEN SPACE; 3)LOT 16 LACKS REQUIRED SIDE YARD SETBACK; 4)LOT 16 LACKS REQUIRED OPEN SPACE SEQR LEAD AGENCY STATUS
2070	JOHN WATERHOUSE 58 LEONARD AVENUE	CLASS B VARIANCE NEW FRONT PORCH THAT PROTRUDES INTO FRONT YARD SETBACK
2071	BETTY JOCK 16 ELIZABETH STREET	CLASS B VARIANCE ADD BEDROOM AND BATH TO REAR OF HOUSE WHICH ENCROACHES IN SIDE YARD SETBACK
2072	DONNA MUNDY 10 HALSEY COURT	CLASS B VARIANCE ADD ADDITION TO FRONT DECK WITHIN THE FRONT YARD SETBACK AND REPLACE PORTABLE SHED.
2074	CHRISTOPHER CASE 53 LORRAINE STREET	CLASS B VARIANCE REPLACE PORCH THAT ENCROACHES ON FRONT YARD SETBACK

The order that the agenda was heard was as follows:

1. #2050, 2051
2. #2072
3. #2067
4. #2070
5. #2072
6. #2067 & 2068

Mr. Nolland reminded the applicants this is a 5 member board. There are only 5 members present for tonight's meeting. The applicant has the right to have 5 members vote. The applicant needs 3 positive votes to pass a motion.

The **first** and **second** items heard were Appeal #2050 Lake City Properties, 4907 South Catherine Street for a Class B Variance requesting to expand current use while not providing enough parking and Appeal #2051 for a Special Use Permit to expand current use to operate nursing/rest home, formerly approved at ZBM held 11/16/2015.

Mr. DeMane recused himself from hearing these 2 appeals.

[Meter 2:59]

These were previously granted at the Zoning Board Meeting held 11/16/2015.

Mr. Nolland read the letter dated April 7, 2016 from Matthew Jodoin, Lake City Properties requesting why they need an extension. Mr. Nolland hopes they can change this procedure so the Building Inspector can extend variances and Special Use Permits that have been approved. Mr. Jodoin advised nothing about this project has changed. No questions were raised from the Board.

AUDIENCE COMMENTS:

There being none, the chairman closed the Public Hearing portion of the meeting for this appeal. [Meter 4:54]

MOTION APPEAL #2050:

By Ms. Insley, seconded by Ms. Kasper

*FOR APPEAL #2050 THAT THE BOARD EXTEND FOR 1 YEAR THE CLASS B VARIANCE
PREVIOUSLY GRANTED IN NOVEMBER*

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

MOTION APPEAL #2051:

By Ms. Insley, seconded by Ms. Latinville

*FOR APPEAL #2051 THAT THE BOARD EXTEND FOR 1 YEAR THE CLASS B VARIANCE
PREVIOUSLY GRANTED IN NOVEMBER*

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

The **third** item heard was Appeal #2072, Donna Mundy, 10 Halsey Court for a Class B Variance to add addition to front deck within the front yard setback and replace a portable shed.

[Meter 6:39]

A plan was presented. Ms. Mundy changed the shed to a car port so she could protect her vehicle. Mr. Nolland asked if she was getting rid of the existing shed. She said no.

Ms. Mundy was not paving to the property line. The current driveway is paved.

Mr. Nolland asked if she would have to pave within 1' of property line. She said she was not paving anything. Just adding the car port to protect vehicle. This is not a plastic one. It will be a solid car port with a roof, not enclosed. Mr. McMahon advised she can create a legal parking area so it should have a paved driveway that leads to it. Mr. Nolland then advised the applicant she cannot pave within 3' of property line.

The existing shed is on a foundation.

[Meter 10:32 – Discussion on why changed from shed to car port, why so far over, why so far back, can this be put in within setbacks.]

Mr. Nolland advised there are 2 issues here. One is the porch and the other is the accessory shed. You are not supposed to put an accessory structure closer than 5' to property line. He referenced letters from neighbors, who were not objecting. But the car portion would be 1' from the existing neighbor's fence.

Discussion on moving the proposed car port towards house, into property. Ms. Mundy then advised she would not pursue the car port. [Meter 14:20] Mr. Nolland advised to avoid coming to the Zoning Board the building must be 5' from the property line, each way.

The new porch would be extended to the edge of the house. Mr. McMahon advised this was the front of the house and encroaching on the front yard setback. The applicant is allowed 6' x 8' uncovered. Ms. Mundy said currently she has an existing roof on her front porch. This is a request to extend to the left hand side roof and deck.

Mr. DeMane questioned the side yard asking if the front yard takes precedence over side yard. Mr. McMahon clarified everything in front of the house is considered front yard, side to side. Mr. DeMane asked if they need to live within the side yard setbacks. Mr. McMahon said yes. Mr. DeMane stated if they grant this, the side yard would be in violation as well and needs to be clarified.

AUDIENCE COMMENTS:

There being none, the chairman closed the Public Hearing portion of the meeting for this appeal. [Meter 19:54]

Mr. Nolland reminded the Board that the shed was not being pursued.

SHORT FORM SEQR:

Page 1	#2	Change "no" to "yes." Add ZBA & Building Permit
Page 2	#6	Check "yes."
	#9	Change "no" to "yes."
	#14	Check "Suburban."

MOTION:

By Ms. DeMane, seconded by Ms. Insley

FOR APPEAL #2072 THAT THE SHORT ENVIRONMENTAL ASSESSMENT FORM AND BASED ON THE REVIEW OF PART 1 AND THE QUESTIONS AS ANSWERED AND MODIFIED THAT IN PART 2 QUESTIONS 1-11 THE ANSWERS WOULD BE NO OR SMALL IMPACT MAY OCCUR AND CONSEQUENTLY THE CHAIRMAN CAN CHECK THE BOX THAT BASED ON THE INFORMATION AND ANALYSIS AND ANY SUPPORTING DOCUMENTATION THAT THE PROPOSED ACTION WOULD NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

MOTION 10 HALSEY:

By Mr. DeMane, seconded by Ms. Kasper

IN REGARDS 2072 FOR DONNA MUNDY 10 HALSEY COURT AS MODIFIED THAT ITS ONLY IN REGARDS TO THE DECK (PORCH) THE COVERED PORCH ADDITION, THE PORTABLE SHED BEING DELETED FROM THE APPLICATION IN THIS MEETING AND GRANT HER AN 8' WIDE DECK INTO THE FRONT YARD SETBACK AND 17' 6" WIDE, WILL GRANT HER THE VIOLATION INTO THE SIDE YARD SETBACK ONLY AS MUCH AS THE CURRENT HOUSE VIOLATES IT, 3'6" INTO SIDE YARD

ALL IN FAVOR: 4
(Mr. DeMane, Ms. Insley, Ms. Kasper, Mr. Nolland)

OPPOSED: 1
(Ms. Latinville)

MOTION PASSED

Ms. Latinville was concerned about the snow onto the neighbor's property. Mr. DeMane thought this was in keeping in character of the neighborhood.

The **fourth** item on the agenda was Appeal #2066, Julie Woodley, 7 Ianelli Avenue for a Class B Variance requesting to widen driveway into side yard setback.

[Meter 28:24]

Mr. Nolland advised from the last month's meeting, they requested better measurements and asked for property measurements etc.

Mr. McMahon looked into the location of the property line in the front yard. The curb is 7-1/2' from the property line which is turn makes the house 6-1/2' from the property line. Mr. Nolland asked if those parking spaces fit behind the 6-1/2'? Mr. McMahon said yes. That would be 3 across – Plan A. The question was how wide a curb cut she could have. Does the City have to provide access to those legal parking spaces. Mr. McMahon answered if they have the legal room available to create a parking space, we have to grant them access. It doesn't have to be straight access out to the street.

[Meter 30:19 – Discussion on spaces even with house, size of curb cuts.]

Mr. Nolland said she is allowed to have the spaces. Mr. McMahon agreed as long as she gets the full 18' into the side yard. She will be able to do that.

Ms. Woodley advised the garage sets back 20'. The driveway there is 26'.

Mr. Nolland again asked if they should grant her a variance or if she can have those 3 spaces – who tells her what we can give her for access to them. Mr. McMahon advised he can give her permission to create the spaces that are legal. As far as the access it would be up to him to deem what is the minimum that he could give her to get to those spaces. If the applicant wants to come straight out he cannot let her do that. That's too wide. But he can say the triangle has to be cut off. But that gets laid out in the field. That's not part of the variance. Mr. McMahon said the reason she is here is to get out in front of that.

Ms. Woodley added there is a little triangle there she would like to get a variance for. The BI will let her come in on an angle and come into parking spot. She is asking for the triangle portion so all 3 spots she can have straight-on. She felt her variance was tiny triangle. Mr. Nolland thought they didn't give that variance. Mr. McMahon said you could because that would be the driveway wider than what's allowed.

The maximum driveway width in this district is 12'. The curb cut is totally separate.

Mr. DeMane asked if they can have a 2-car wide driveway? Mr. McMahon advised not if they're less than 100' wide.

This is still a Class B Variance just not parking in the front yard. It's a variance for a driveway wider than 12'. Mr. Nolland explained further. [Meter 34:53]

COMMENTS FROM AUDIENCE:

There being none, the chairman closed the Public Hearing portion of the meeting for this appeal. [Meter 36:55]

SHORT FORM SEQ:

Page 1	#2	Add ZBA
Page 2	#6	Change "No." to "Yes."

MOTION SF SEQ:

By Ms. Insley, seconded by Mr. DeMane

BASED ON THE ANSWERS IN PART 1 OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM THAT IN PART 2 ITEMS 1 – 11 NO OR SMALL IMPACT MAY OCCUR BE CHECKED AND THAT THE CHAIR BE AUTHORIZED TO SIGN

ALL IN FAVOR: 5

DRIVEWAY DISCUSSION:

Mr. DeMane stated he preferred Plan B. The code allows 12'. If it's wider than 100' you are allowed 20 and you are giving her 3 wide at the front. This is a single car garage with a spot next to it. He personally has a hard time with Plan A.

Ms. Insley said this will be a 27' wide driveway. Mr. DeMane said with Plan B it could be down around the 20' wide driveway. Essentially we are looking to minimize the variance, which Plan B does.

Ms. Woodley said she does not want to tandem park and move cars in and out. She realizes she legally can create those 2 parking spaces in the side yard (Plan A) but she doesn't really want Plan A. [Further discussion by Board regarding further postponing, curb cut, triangle area, Meter 45:13 – 48:25]

MOTION APPEAL #2066:

By Ms. Kasper, seconded by Ms. Latinville

FOR APPEAL #2066, CLASS B VARIANCE REQUESTING WIDENING DRIVEWAY INTO SIDE YARD SETBACK 20' OVER FROM THE SIDE OF THE GARAGE

QUESTIONS ON MOTION:

Mr. DeMane asked if they need to address the width of the driveway. Mr. Nolland said the motion only needs to reflect the width of the driveway – allowing the driveway to extend over 20' past. Mr. DeMane then asked Mr. McMahon if he was correct that she

is looking to widen the driveway into the side yard setback and violating the overall width of the driveway on Plan A. Mr. McMahon said widening into the side yard setback is not a variance. She doesn't need a variance for that. The parking area has to be provided on the side or the rear. Ms. Woodley felt it was still the side yard setback. It's 3' 9" from the side of her garage to the fence. Mr. Nolland advised she can pave up to 3'. Mr. DeMane was under the impression she wanted more over to the side yard. Mr. McMahon said initially she did show that in her plan. Mr. Nolland said the variance the applicant is seeking is to widen her driveway to a distance of 20' to the right of the garage, which she is allowed 12'.

MOTION CONTINUES:

*FOR APPEAL #2066 CLASS B VARIANCE REQUEST TO WIDEN THE DRIVEWAY 20'
FROM THE SIDE OF THE GARAGE*

Mr. DeMane asked for clarification of the width of the driveway. It's currently 8 or 9 feet. Ms. Woodley said if they give her 20' variance, the new driveway width would be 29'.

*ALL IN FAVOR: 3
(Mr. Nolland, Ms. Latinville, Ms. Kasper)*

*OPPOSED: 2
(Mr. DeMane, Ms. Insley)*

MOTION PASSED

CLARIFICATION OF VOTES:

Ms. Insley looked at frontage of the lot and the max there is 20' and this is under 100' lot it didn't seem equitable to allow that wide a driveway.

Ms. Latinville thought it made sense.

Ms. Kasper thought it wasn't going to be that much space.

Mr. DeMane felt 3 car drive-way is too wide.

Mr. Nolland felt the lot was usually and the front of the house is so close and parking spaces are so close to the street to make something chopped up to go in there. He was really swayed that these are legal spaces.

The **fifth** item on the agenda was Appeal #2070, John Waterhouse, 58 Leonard Avenue for a Class B Variance for new front porch that protrudes into front yard setback.

[Meter 56:08]

Mr. McMahon advised this is a projection into the required yard. The house is built right to the setback line and the provisions of the zoning ordinance allow for the projection into the required yard at ground level 6 x 8. This is what's permitted. Anything larger than that needs a variance. This request is for a 8' x 18' deck.

Mr. Waterhouse advised they will be tearing part of the deck out so they can build over it.

Mr. DeMane asked why not the back yard. Mr. Waterhouse explained he wishes he could be he doesn't have an exit from the back other than the garage, which goes into a dog kennel. He cannot build a deck that is accessed from the dining room or kitchen. His parents are in there 80's and it's not safe for them to walk around the dog kennel to get to a deck out in the back yard.

Ms. Insley asked why bigger deck. Mr. Waterhouse advised 6 x 8 doesn't even hold 2 chairs comfortably. There is nice shade there all day long. He wants it to look nice aesthetically with the house.

AUDIENCE COMMENTS:

There being none, the chairman closed the Public Hearing portion of the meeting for this appeal. [Meter 1:00]

The applicant is allowed 6' x 8' wide uncovered steps or landings.

Mr. Nolland advised that street is protected by the front yard setbacks. He believes most of those homes are 25' back. Mr. McMahon said yes.

Mr. Nolland asked if this could be smaller. Mr. Waterhouse said he could go 7'. The current steps come out 6-1/2' so he feels he's not coming out that much more.

[Meter 1:04-1:10 Further discussion regarding no other variance for this property, doesn't fit with neighborhood, lengthy discussion about other porches around city being in front yard setback.]

Mr. Waterhouse advised he didn't want to go any smaller due to the fact that aesthetically it's not going to balance out with the window.

Mr. Nolland stated there is a bit of hesitancy by the board regarding the size requested. He suggested by 8 x 16. Mr. Waterhouse said the end of the porch would then be right at the window. He cannot use the right side of the door due to sewer clean out. Mr. DeMane clarified going closer to the door, not toward the garage. Mr. Waterhouse said

he could do that. [Further discussion regarding dimensions of door, windows, shutters, Meter 1:16:27 – 1:20:01]

Mr. DeMane said he has a problem with this in it won't fit with the neighborhood. Mr. Waterhouse said it would make the neighborhood look better. Mr. DeMane said there is a ton of room in the back of the house. That's the way those houses were built. This situation is not unique to this neighborhood. Mr. Waterhouse reiterated his above concern about his parents.

Ms. Insley thought there was a lot of space in the rear of this property also. She referenced the homes next door being in line. Mr. Nolland stated it doesn't look like the applicant would get a positive 3 votes tonight and suggested postponing this. Mr. Waterhouse said he couldn't. He was having the siding done and a ledger put on. He asked what size they would allow.

Mr. DeMane spoke about denying this same size deck on Prospect Avenue. A lot of the porches in the City predates zoning.

[Discussion about 6' projection, precedence setting, vision down the front of that street, depth being the problem, bottom concrete step being 6-1/2'. Meter 1:24:10]

SHORT FORM SEQ:

Page 1 #2 Add ZBA & BP

MOTION:

By Mr. DeMane, seconded by Ms. Kasper

*BASED ON THE ANSWERS IN PART 1 AFTER REVIEWING ALL THE ANSWERS AS
MODIFIED OR ADDED TO THAT THE QUESTIONS 1-11 IN PART 2 NO OR SMALL IMPACT
MAY OCCUR SHOULD BE CHECKED AND CONSEQUENTLY THAT THE CHAIR BE
AUTHORIZED TO SIGN AND THIS WILL NOT RESULT IN ANY ADVERSE
ENVIRONMENTAL IMPACT*

ALL IN FAVOR: 5

MOTION APPEAL #2070

By Ms. Latinville, seconded by Ms. Insley

*TO APPROVE MOTION APPEAL #2070 JOHN WATERHOUSE, 58 LEONARD AVENUE FOR
A CLASS B VARIANCE FOR A FRONT PORCH THAT PROTRUDES INTO THE FRONT YARD
SETBACK FOR A SIZE 6'6" X 18' AND UNCOVERED*

ALL IN FAVOR: 4
(Mr. Nolland, Ms. Insley, Ms. Latinville, Ms. Kasper)

OPPOSED: 1
(Mr. DeMane)

Mr. DeMane felt this would come back to bite them.

The **sixth** item on the agenda was Appeal #2074, Christopher Case, 53 Lorraine Street for a Class B Variance to replace porch that encroaches on front yard setback.

[Meter 1:30:42]

Mr. Case advised he would like this porch to be enclosed. He mistakenly thought if he kept the same footprint of the original porch he wouldn't need a variance. He advised this deck was very rotten and needed to be torn down asap.

Mr. Nolland spoke about "enclosed porches."

The Board had no questions.

AUDIENCE COMMENTS:

There being none, the chairman closed the Public Hearing portion of the meeting for this appeal. [Meter 1:32:40]

SHORT FORM SEQR:

Page 1 #2 Add ZBA & BP

MOTION:

By Ms. Insley, seconded by Mr. DeMane

BASED ON THE ANSWERS TO QUESTIONS IN PART 1 SHORT FORM ENVIRONMENTAL ASSESSMENT FORM THAT IN PART 2 NO OR SMALL IMPACT MAY OCCUR BE CHECKED ON ITEMS 1 – 11 AND THAT THE CHAIR CHECK THE BOX INDICATING THAT THE PROPOSAL WILL NOT RESULT IN ANY SIGNIFICANT ENVIRONMENTAL IMPACT

ALL IN FAVOR: 5

MOTION ON APPEAL #2074

By Ms. Latinville, seconded by Ms. Kasper

TO APPROVE APPEAL #2074 CHRISTOPHER CASE 53 LORRAINE STREET FOR A CLASS B VARIANCE TO REPLACE A PORCH IN FRONT YARD SETBACK AS PER PLAN

ALL IN FAVOR: 5

OPPOSED

MOTION PASSED

The **seventh** item on the agenda was Appeal No. #2067 (Class A Variance) and eighth item on the agenda was 2068, R. L. Vallee Inc. for a Class B Variance.

[Meter 1:36]

Mr. Nolland asked where we were at about SHIPO. The secretary advised there was no answer from SHIPO. The request to notify lead agency status to SHIPO was 4/13/2016.

The secretary advised she attempted to upload the application to the new CRIS software. SHIPO entered the letter 4/19/2016 but they didn't add the drawings.

The Planning Board granted the Zoning Board lead agency status at the PBM held April 25, 2016.

Mr. Nolland asked if SHIPO has ever said no they want to be lead agency. Mr. McMahon couldn't say for sure. The secretary and Scott Allen advised they never has remembered asking to be lead agency. Mr. Allen said this whole SEQR and SHIPO's involvement is a little bit a grey area when it comes to SEQR. To error on the side of safety he always invite SHIPO to be an involved agency. This parcel is adjacent to and a little bit in the historic base oval district. Therefore they pose a Type I action for the purpose of SEQR to be substantially contiguous or partially within the base oval.

Mr. Allen spoke about the Programmatic agreement requires new construction or alterations of existing construction requires to be reviewed by SHIPO. It's not really an approval process. The Planning Board is actually an approval process. He spoke further about lead agency, SHIPO possible comments [Meter 1:42]

Mr. Nolland then spoke about procedures, historic issue and SHIPO and being outside the Zoning Board jurisdiction. He just wanted to make sure the Zoning Board is not doing something "procedurally" wrong.

Mr. Nolland spoke about the Planning Board voting to make Zoning Board lead agency and the comments made at that meeting. Did they vote to make this comment. Mr. Allen advised one of the Planning Board members commented on the project. Mr. Murnane thought they should get the Planning Board minutes to see what they did. Mr. Nolland just wanted to understand. Mr. Murnane then said ultimately if the Zoning Board is lead agency, you are the one that determines the impact. Mr. Nolland wanted to know who made the comment "proposed plan may have a significant adverse impact on the historic character of the US Oval historic district." That's the comment.

Mr. Nolland said the reason they are lead agency is they have to grant variances before this can go any further. [Meter 1:47 – Further discussion by Mr. Allen, Nolland, requirements of historic site reviews, brick, possible buffering, planning board jurisdiction, dealing with SEQR and determining how variances work and whether to grant.]

Mr. Nolland advised the Class A Variance is triggered by the gasoline sales, not the convenience store. Mr. McMahon added because it's too big it's considered neighborhood convenience and restricted to 1600 square feet. Mr. Murnane said it's bigger than what's allowed in that zone.

The Class B requires:

- 1)2 PRINCIPLE STRUCTURES ON 1 LOT;
- 2)LOT 13 LACKS REQUIRED OPEN SPACE;
- 3)LOT 16 LACKS REQUIRED SIDE YARD SETBACK;
- 4)LOT 16 LACKS REQUIRED OPEN SPACE SEQR LEAD AGENCY STATUS

[Meter 1:52]

Mr. Allen introduced Tom Murnane, project attorney, Neil Fessette, Owner of property, Dereck Rosenbaum, Appraiser and done the financial aspects of the hardship of the Class A Variance and Scott Resnick, R. L. Vallee Inc. – contractors, Steve Bombard is with Fessette Realty.

Mr. Allen spoke about what was discussed at the Planning Board meeting. The applicant has really respected the character of the historic district that's behind this building and feel this will be a great compliment to the neighborhood. He spoke with a few residential people on the US Oval and received positive comments. Primarily the residents look forward to be able to walk to a facility like this.

The Class A and B Variance applications have different paperwork submitted.

Mr. Murnane spoke about the 2 separate applications, one for a use variance and one for the area variance. The property is located in an RC-2 district. The neighborhood convenience would be fine but it will be larger than what's allowed per the zoning ordinance. The gasoline sales is not allowed in the RC-2 district and that's the primary reason they are asking for the use variance (Class A).

Please see application letter dated March 1, 2016 by Tom Murnane.

Reasonable Return and Self-created Hardship. Mr. Murnane continued saying there are certain requirements that have to be met not only by the city zoning ordinance but by state law in order to achieve a use variance. Those include burden of proof, which was submitted. Mr. Rosenbaum submitted quite a comprehensive document that's attached to the application indicating that it's clear the applicant can't realize a reasonable return based upon the documentation and information provided.

New York Road is south with older structures on the property and bordered by a commercial zone on U.S. Avenue which includes a self-service gas station, bank, Burger King, bar, etc. The zone is a pretty unique. In his opinion, this is a pretty unique zone being framed the way it is.

Changing the Essential Character of the Neighborhood. If the subdivision is approved is not going to be touching the Oval at all. They felt the character of the neighborhood would not be changed with Oval Craft Brewing now being adjacent to this parcel. Next to the City Gym might be a different argument. [Meter 1:58]

Self-created hardship. Attached for the board review are original contracts between R L Valley and Mr. Fessette saying those agreements are all contingent upon R. L. Valley obtaining the necessary use approvals, area variances to construct on this property. They have not bought the property yet. It's clear there is no self-created hardship.

(8:58 PM)

Mr. Murnane then discussed the Class B Variance "Area Or Dimensional Variance" answers. [Meter 2:01]

R. L. Vallee has made a very conscious effort to make the building and structures on property mirror in similarity what's on property. Mr. Murnane advised it will be "real brick" for this building. They want to be a good neighbor, do what's right and have the project fit in with the character. They don't want people complaining or having problems in what this building will look like.

Mr. Murnane spoke about Dave Hoover's, IBEW comments regarding a through connect from Ohio through property. The applicant has told the Planning Board that will not happen and they will be closing off any type of thought connector from Ohio to US Avenue. He asked if there were any other comments received from the community regarding these applications.

[Meter 2:04:33 – 2:22:00]

Mr. Rosenbaum then spoke about his letter dated March 22, 2016, saying his job was to prove financial hardship. As an appraisal this was looking at the highest and best use of the property and allowed uses in that district.

The huge building in the back has been on the market for 10 years with no offers to buy or lease.

Ms. Latinville questioned where he has advertised. Mr. Fessette advised national internet, bulk email. He has had less than 2 dozen inquiries in the last 10 years. He explained further. [Meter 2:23:27] He's spent a lot of time evaluating this facility and viable use. He's open to any suggestion and any use for any dollar amount that made sense. Mr. Rosenbaum advised that was his main point. Even with the lease analysis there are a lot of assumption that have to come into play whereas with the sale, with the purchase contract you have that. This is the only one that has come about and is substantially higher than any other offer.

AUDIENCE COMMENTS:

Mr. James Dubrey, owner of Dubrey's Sunoco asked if he was demolishing Building 100. Mr. Fessette said he hoped to donate the building to the historic association. Mr. Dubrey mentioned that parking lot was ½ full from the brewery. If he is not demolishing the building where are they going to park. Thought there are very few spaces left on the base in general for parking. Mr. Fessette answered in saying if they are successful in donating the building to the historic association the parking will be built combined from the on-site parking plus Building 100 is in the US Oval parking district. They are part of that US Oval parking. Mr. Fessette added if there was an overflow.

Mr. Dubrey asked how many parking spaces were allowed for Building 100. Mr. Fessette added Building 100 also has the US Oval parking district. Mr. Dubrey further questioned the parking spaces. Mr. Allen added they do not know what's going to happen with Building 100. They do know they have to provide parking for that building for whatever it will eventually used for. [Meter 2:29] They have looked at the configuration of lot 16 and they believe they can provide adequate parking on Lot 16.

Mr. Murnane mentioned that part of Building 100 on Lot 16 will have to be removed anyway. A newer addition on the back will probably be removed, even they may donate it to historic society. That will create more parking spaces behind that building.

Mr. Allen said 7 or 8 spaces will be provided behind Dr. Delucas' old building. He spoke about the overflow of the grand opening of Oval Craft Brewing. He has addressed the parking issue with the Planning Board and the final site plan.

There is no variance regarding parking spaces for Maplefields.

Mr. Allen reiterated they do not know what the final use will be for Building 100.

Mr. Dubrey questioned the curb cut out to US Avenue – will that be a north or south bound. Mr. Nolland advised this was under review of the Planning Board.

[Meter 2:35 - 2:40 Further discussion regarding what zoning and planning boards deal with by Mr. Nolland and Dubrey.]

Mr. Nolland asked the board if they felt this applicant has met the criteria for the Class A Variance. The reason he is coming in with the application is due to the gas sales. The Board said yes.

Mr. Allen then spoke about the area variances needed. [Meter 2:46] He thought removing the long narrow building along NY Road would not be a good choice at this point in time. They thought a variance for the building would be a better choice. They are requesting Lot 13 be larger. Lot 16 used to encompass a lot of paved area to NY Road. Lot 16 will get smaller. Lot 13 will be the larger lot. Lot 13 will have 2 principle structures on it.

The open space on Lot 13 will cover the proposed building and gasoline islands and doctor's office. In order to provide good traffic flow through out and around the building

R. L. Vallee has provided access to the rear of the building and will be paving all the way around the building. It will need extra pavement. [Meter 2:49:40]

The Zoning Ordinance requires 50% open space. With the building, parking and medical/doctor's office they will be at 39%. This is an 11% open space variance. [Discussion changing deficiency, Meter 2:51;50]

The side yard setback is for Lot 16, south easterly corner. The required new lot line will be 9' from the existing building.

Due to new property line on Lot 16, this now has only 46% coverage. 50% coverage is required in the ordinance.

[Meter 2:56:50 – 3:02: Mr. Allen discussed the "Area or Dimensional Variances" sheet.]

Mr. McMahon added this project needs council approval because it's proposing to connect 2 streets.

Mr. DeMane discussed "coverage" of both lots and how this is significantly increasing the coverage and variances. [Meter 3:07]

MLD and Engineering correspondence were read into the record. [Meter 3:08]

Mr. DeMane questioned with tearing down a portion of Building 100 that might help the coverage requirements.

LONG FORM SEQR:

Page 2	Add B. a.	Add: "City Council"
Page 4	g.ii.	Add: <35 height; 60 width; 100 length.
	D.2.a.	Change "No" to "Yes."
	D.2.a.i.	Add: "underground fuel foundation."
	ii.	tons: 200 cy 1 season
	iii.	Add: Existing soil & asphalt hauled to appropriate site.
	iv.	Check "No."
	v.	Add: <1 acre.
	vi.	Add: <1 acre.
	vii.	Add: 12'
	viii.	Check "No."
	ix.	N/A. Finish grade/plans.
Page 5	c.	Change "No" to "Yes."
	i.	Add: < 500.
	ii.	Check "Yes."
		Name of District: City of Plattsburgh

Check: "Yes."
Check: "Yes."
Check "No."
Check: "Yes."
Check: "No."

- d. Change "No" to "Yes."
 - i. Add < 500 gallons
- Page 7
- k. i. Add: 50,000 kw/annual.
 - l. i. Add: 24 hours.
- Page 8
- p. ii. Volume: 20,000. Per unit time.
 - r. i. Construction: 40 tons per season.
Operation: 1 ton per week.
 - ii. Construction & Operation: recycle
 - iii. Construction: dumpsters.
Operation: dumpsters.
- Page 10.
- h. Change "No." to "Yes."
 - i. Check "Yes."
 - iv. Add: Refer to "USAF FOST."
- Page 11.
- E.2.c.:Add: "Sand 50%
"Clay 30%"
"Soil 20%."
 - d. Add: 75 feet
 - e. check: well drained 90%
moderately well dr.: 10%
- Page 12
- p. Change "Yes" to "No."
- Page 13
- h. Check "Yes"
 - i. Add: Lake Champlain.
 - ii. Add: Natural resource & waterway.
 - iii. Add: < 1 mile.

MOTIONS LEAD AGENCY:

By Ms. Insley, seconded by Ms. Latinville

**TO ACCEPT THE PLANNING BOARDS DESIGNATION AS LEAD AGENCY FOR THE 2
APPLICATIONS AS DESIGNATED BY THE PLANNING BOARD**

ALL IN FAVOR: 5

MOTION PASSED

MOTION LF SEQR:

By Mr. DeMane, seconded by Ms. Insley

*IN REGARDS TO THE FULL ENVIRONMENTAL ASSESSMENT FORM AFTER REVIEWING
EXTENSIVELY AND REVISING AS NOTED THAT THIS ACTION WILL NOT HAVE AN
ADVERSE ENVIRONMENTAL IMPACT ON THE AREA*

ALL IN FAVOR: 5

AMENDED MOTION:

By Mr. DeMane, seconded by Ms. Insley

*AND WILL UTILIZE THE SAME ENVIRONMENTAL ASSESSMENT FORM FOR BOTH THE
USE VARIANCE AND THE AREA VARIANCE*

ALL IN FAVOR: 5

MOTION APPEAL #2067:

By Ms. Insley, seconded by Ms. Kasper

*TO APPROVE APPEAL #2067 FOR A CLASS A VARIANCE FOR CONSTRUCTION OF A
NEW CONVENIENCE STORE WITH GASOLINE SALES IN A RC-2 DISTRICT AS PER PLAN
SUBMITTED*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

MOTION APPEAL #2068:

By Mr. DeMane, seconded by Ms. Insley

*TO APPROVE APPEAL #2068 FOR R.L. VALLEY INC THE PROPOSED MAPLEFIELDS AT
THE INTERSECTION OF US AVENUE AND NY ROAD IN REGARDS TO THE AREA
VARIANCE FOR 2 PRINCIPLE STRUCTURES ON 1 LOT, SPECIALLY ON NEW LOT 13,
OPEN SPACE ON NEW LOT 13, 50% REQUIRED, 39% PROVIDED, SIDE YARD SETBACK
ON NEW LOT 16 24' REQUIRED 9' AS PROVIDED AND OPEN SPACE ON NEW LOT 16
50% REQUIRED, 46% PROVIDED AS SHOWN ON THE PLANS AND IN THE TOTAL
PACKAGE REVIEWED*

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

MOTION:

By Ms. Insley, seconded by Ms. Latinville

TO APPROVED THE MARCH 21st, 2016 ZONING BOARD MINUTES

ALL IN FAVOR: 3
(Mr. Nolland, Ms. Insley, Ms. Kasper)

MOTION:

By Mr. DeMane, seconded by Ms. Insley

TO APPROVED THE APRIL 11TH, 2016 ZONING BOARD MINUTES AS READ

ALL IN FAVOR: 4
(Mr. Nolland, Ms. Insley, Mr. DeMane, Ms. Kasper)

Motion to Adjourn:

By Mr. DeMane, seconded by Ms. Latinville

Adjourned at 11:03 PM

For the purpose of this meeting, this meeting was recorded on the VIQ System in the Common Council Chambers. This is a true and accurate copy and transcription of the discussion.

Denise Nephew
Secretary
Zoning Board of Appeals